IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2007

CORAM:

THE HON'BLE MR.JUSTICE F.M.IBRAHIM KALIFULLA

AND

THE HON'BLE MR.JUSTICE S.TAMILVANAN

W.A.NO.2728 of 2003

and

WA.M.P.NO.4255 OF 2003

Kanyakumari District Central Cooperative
Bank represented by its Special Officer
Nagercoil, Kanyakumari District. ...Appellant
(3rd Respondent)

Vs.

1.K.Durairaj
2.C.Columbus David Selvaraj
3.S.Thavasimuthu
4.V.Baboo
5.The Registrar of Cooperative Soceties,
Thalamuthu Natarasan Building,
Chennai 600 010.

6. The Regional Joint Registrar of Cooperative
Societies,
Kanyakumari Region,
Nagercoil-2. ...Respondents
(Petitioners and
Respondents 1 and 2)

WEB COPY

Writ Appeal filed under Clause 15 of the Letters Patent against the order of this Court dated 19.8.2002 passed in W.P.No.9961/1996. (WP No.9961/96 presented under Article 226 of the constitution of India to issue a writ of Certiorari, calling for the records in respect of the impugned proceedings of the third respondent in RC No.2/96 Tho.A.dated 25.6.1996 passed solely on the instruction of the first respondent and quash the same).

https://hcservices.ecourts.gov.in/hcservices/

For Appellant:Mr.S.M.Subramaniam
For Respondents 1 to 3: Mr.K.Ravichandrababu

JUDGMENT

(Judgment of the Court was delivered by F.M.IBRAHIM KALIFULLA, J)

The appellant is a Cooperative Society. The challenge is to the order of the learned Single Judge dated 19.8.2002 passed in W.P.No.9961 of 1996. Respondents 1 to 4 challenged the order of termination dated 25.6.1996. The said order merely reads as under:

'Appointment orders under reference No.2 are hereby cancelled as per the advice of the Registrar under reference No.1".

2. When the challenge was made in the writ petition on behalf of the appellant as well as the fifth and sixth respondents herein, the stand taken was that respondents 1 to 4 were not sponsored by the Employment Exchange and therefore the appellant was directed to remove the respondents 1 to 4. It is in the above said background, respondents 1 to 4 who claimed to be appointed in March 1996 came to be removed from service on 25.6.1996. It is also relevant to note that respondents 1 to 4 were appointed as Supervisors on temporary basis in the year 1973 and were ousted from service for want of vacancy in the year 1978. At that point of time, viz. in the year 1978, respondents 1 to 4 did not challenge the very termination of employment. In the above said background, learned Single Judge noted that re-employment of respondents 1 to 4 came to be made by applying Section 25H of the Industrial Disputes Act and therefore their subsequent employment as from the month of April 1996 cannot be found fault on the ground that their names were not sponsored by Employment Exchange. In otherwards, by virtue of the operation of the statutory provision, namely that respondents 1 to 4 had acquired a statutory right to get re-employment, after their initial order of termination, as and when the vacancies arose on a future date, the question of sponsoring their names through employment exchange did not arise. Therefore, the said ground raised on behalf of the appellant was found to be unsustainable. The learned Single Judge considered the further submission made on behalf of the appellant by relying upon Rule 149(6)(c) of the Cooperative Societies Rules. The said rule only provides for termination of service of an employee before the expiry of six months of his service, if his work or conduct have not been satisfactory and that no appeal would lie against an order terminating the probation of an employee during the said period of six months. Since in the case in hand, termination was not on the ground of unsatisfactory performance of work or conduct, the application of Rule 149(6)(c) cannot be made. Therefore, the said contention of the appellant was also rejected by the learned Single Judge. We are in full agreement with the conclusion of the learned

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

Single Judge on the above referred to contentions raised on behalf of the appellant. We are not in a position to take a different view than the one taken by the learned Single Judge. Under such circumstances, the termination of the service of respondents 1 to 4 as from 25.6.1996 has been found to be unjustified and invalid. The re-employment ordered by the learned Single Judge with the consequential benefits as directed therein is perfectly valid and we uphold the same. The Writ appeal fails and the same is dismissed. No costs. Consequently, WA.MP.NO.4255 of 2003 is also dismissed.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

VJY

To

1.The Registrar of Cooperative Soceties,
Thalamuthu Natarasan Building,
Chennai 600 008.

2. The Regional Joint Registrar of Cooperative Societies,
Kanyakumari Region,
Nagercoil-2.

+1cc to Mr.S.M.Subramaniam, Advocate Sr 12273
+1cc to Mr.K.Ravichandrabaabu, Advocate SR 11589

JRG (CO)
km/8.3.

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/